

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Andrew Davies	Team: Team # 8	CCRB Case #: 200703788	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 03/16/2007 10:00 PM	Location of Incident: Liberty Avenue and Van Siclen Avenue	Precinct: 75	18 Mo. SOL 9/16/2008	EO SOL 9/16/2008	
Date/Time CV Reported Sun, 03/18/2007 4:16 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sun, 03/18/2007 4:16 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jason Sharp	16369	935731	075 PCT
2. POM Diery Louis	29819	940395	075 PCT
3. POM Bilal Ates	30040	934429	075 PCT
4. SGT Mohammed Karimzada	00786	905598	075 PCT
5. An officer			075 PCT
6. Officers			075 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Cory Smith	00782	935763	075 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Bilal Ates	Abuse: PO Bilal Ates stopped the car in which § 87(2)(b) was an occupant.	
B.POM Jason Sharp	Abuse: PO Jason Sharp stopped the car in which § 87(2)(b) was an occupant.	
C. An officer	Abuse: An officer frisked § 87(2)(b)	
D.POM Bilal Ates	Abuse: PO Bilal Ates searched the car in which § 87(2)(b) was an occupant.	
E.POM Bilal Ates	Abuse: PO Bilal Ates threatened to arrest § 87(2)(b)	
F. Officers	Abuse: Officers stopped the car in which § 87(2)(b) was an occupant.	
G.POM Diery Louis	Abuse: PO Diery Louis searched the car in which § 87(2)(b) was an occupant.	
H.SGT Mohammed Karimzada	Abuse: Sgt. Mohammed Karimzada searched the car in which § 87(2)(b) was an occupant.	

Synopsis

On March 16, 2007 at 9:30 PM § 87(2)(b) was waiting for his girlfriend on Van Siclen Avenue in Brooklyn when he was pulled over by officers PO Bilal Ates and PO Jason Sharp of the 75th Precinct for having a broken tail light (**Allegations A and B**). One of the officers then allegedly frisked him for weapons (**Allegation C**). PO Ates then allegedly asked § 87(2)(b) for his keys and searched his car and trunk (**Allegation D**). PO Sharp ran a license check that showed that § 87(2)(b)'s license was suspended and PO Ates allegedly told § 87(2)(b) "If I wanted to be a dick right now, I would lock you up" (**Allegation E**). The officers told § 87(2)(b) that he was free to go. About 15 minutes later § 87(2)(b) was pulled over again by PO Ates and PO Sharp as well as Sgt Mohammed Karimzada, PO Diery Louis, and PO Cory Smith of the 75th Precinct (**Allegation F**). PO Louis arrested him for § 87(2)(b) and he was placed in the back of PO Sharp's patrol vehicle. At that point all five officers did a thorough search of his car, including his trunk (**Allegations G and H**). § 87(2)(b) was brought to the 75th Precinct and his car and belongings were released to his friend § 87(2)(b).

§ 87(2)(g)

Summary of Complaint

§ 87(2)(b)

§ 87(2)(b) is an Asian male who is 6'0" tall, weighs 220 lbs., and is § 87(2)(b) old. § 87(2)(b) gave three statements to the CCRB regarding the incident. They include his initial complaint on March 18, 2007 (enclosure 2a-b), a phone statement on March 20, 2007 (enclosure 3), and an in person statement on March 21, 2007 (enclosure 4a-d). § 87(2)(g)

On Friday March 16, 2007 at 9:30 PM § 87(2)(b) was parked by the side of the road waiting for his friend § 87(2)(b) to arrive at the Van Siclen Avenue stop on the J train. A patrol car pulled in front of § 87(2)(b)'s car which made him concerned because he had a suspended license. § 87(2)(b) decided to move his car and parked by a hydrant a block away and got out of his car.

He stepped out of his car and the officers said, "Come here, stop" (**Allegations A and B**). They asked him if he had anything in his pockets and one of the officers frisked his pockets (**Allegation C**). In his first two statements § 87(2)(b) did not mention being frisked. They asked him if he was, "Copping crack on the corner." They asked him if he was hiding any drugs or weapons in the vehicle. § 87(2)(b) gave PO Ates, identified by the roll call as PO Sharp's partner, his keys and PO Ates opened all the doors of the car (**Allegation D**). He walked around the whole car, and looked inside all of the seats. He also opened the trunk and looked in the trunk. § 87(2)(b) did not object to them searching and said that he didn't have anything in the car. He was talking to PO Sharp, identified by his badge, while PO Ates searched his car. PO Ates pulled an empty mini zip lock bag out of the car and said, "What is this?" § 87(2)(b) stated that the bag was not his. He gave his license to one of the officers and they ran a check on his license. They found that his license was suspended and PO Ates said, "If I wanted to be a dick right now, I would lock

you up” (Allegation E). His license was suspended because in 2003 he didn’t pay speeding tickets on time. The officers did not give him a summons or arrest him at that time. They told him that he was free to go.

§ 87(2)(b) drove around the corner, parked his car, and waited outside of a Spanish restaurant for about 10 minutes and because his girlfriend didn’t call he decided to go home at 9:30 PM. He drove one block down Hendrix Street and saw the patrol car coming the other way. He made a left turn on Van Siclen Street and Liberty Avenue and the officers pulled him over right by a bus stop (Allegation F). The officers again told him that he had bought drugs and that he was lying to them. They told him to get out of the car, handcuffed him, and put him in the back of the patrol car. The officers said, “You’re going down because we saw you do everything.” PO Ates searched the floors of his car while he was in the backseat of the patrol car. PO Ates searched for five minutes and did not find anything. PO Ates did not open the trunk during this search.

The officers put him into their car then got into their patrol car and began driving around the block with § 87(2)(b) in the back seat. PO Ates was the driver of the car and PO Sharp was the passenger. The officers were checking to see if any drugs were on the ground. The officers kept saying, “We saw you throw the drugs out of your window.” The officers then parked again and walked around the perimeter looking for drugs and did not find anything. Two or three more patrol cars came and 4 or 5 officers, including a sergeant, checked his vehicle (Allegations G and H). They were doing a thorough search of the car in front of him while he sat in the patrol car. The officers opened all the doors and the trunk. When he was in the patrol car the officers told him that they had found two bags in his vehicle. Throughout the incident PO Ates said several times, “Why are you fucking lying?” (Allegation J). They arrested § 87(2)(b) for driving with a suspended license.

The officers tried to use the remote start and ended up turning off the engine so that they could not start the car. The officers said they were going to voucher his car because they could not move it. The officers left his car on the street and had his keys for two hours. He later gave the keys to his friend § 87(2)(b) who picked up the car and brought it to his house. When he was released he saw that his school papers were thrown everywhere in the car and that his 450-dollar Ipod was missing.

§ 87(2)(b)

On May 1, 2007, § 87(2)(b) provided a phone statement to the CCRB (enclosure 5). § 87(2)(b) is an Asian male who is § 87(2)(b) old and is a friend of § 87(2)(b)s. On March 16, 2007, an officer called him and told him to come by and pick up § 87(2)(b)s belongings and his vehicle. He picked up all of his property and signed something saying what was there. They gave him § 87(2)(b)s hat, cell phone, money, and wallet. The officers told him where the car was and he went to go get it.

The car was parked at a bus stop on Liberty Avenue. § 87(2)(b) could not start the car but the officers gave the phone to § 87(2)(b) and § 87(2)(b) explained how to start the car. § 87(2)(b)s papers were all over the seats of the car. It looked like someone had broken into the car. The trunk also looked like someone had gone through it. § 87(2)(b) and § 87(2)(b) went back to the precinct in order to file a complaint. § 87(2)(b) said that they had arrested him for having a suspended license. § 87(2)(b) told him that the officers kept asking him where the drugs were, and if he had drugs.

Results of Investigation

PO Bilal Ates

On May 23, 2007, PO Bilal Ates appeared at the CCRB (enclosure 7a-b). PO Ates is a white male who is 6’0” tall, weighs 240 lbs., is § 87(2)(b) old, and is assigned to the 75th Precinct. On the date of the incident, March, 16, 2007, PO Ates worked from 5:30 PM to 2:05 AM, was assigned to the 75th Precinct Tracer unit, and was partnered with PO Jason Sharp. PO Ates was dressed in uniform and assigned to a marked patrol vehicle 1236. PO Ates had no relevant entries in his memo book (enclosure 6a-b). § 87(2)(g)

At about 9:15 PM PO Ates and Sharp pulled around a corner and saw § 87(2)(b) parked with a broken tail light at a drug prone location. PO Ates explained that there had been numerous drug arrests at that location and that people sell drugs at the train station. § 87(2)(b) pulled out of his spot and PO Ates put on their lights. § 87(2)(b) pulled over by a fire hydrant, got out of his car, and started walking.

The fact that § 87(2)(b) began walking away raised PO Ates' level of suspicion. The officers stopped § 87(2)(b) about 10 feet from his car and asked for § 87(2)(b)'s license and registration which he went back to his car to get. PO Sharp looked inside his car as he got his paperwork to ensure that he had no weapons. PO Sharp never frisked § 87(2)(b). After checking § 87(2)(b)'s license they found that it was suspended and told him so. He explained that he was waiting for his girlfriend, and they let him go telling him to let her drive the car. PO Ates did not ask for § 87(2)(b)'s keys or search his car.

The officers drove a few blocks away and met up with Sgt. Karimzada. About 10 minutes after leaving § 87(2)(b) they saw him drive past them and pulled him over along with Sgt. Karimzada. They asked him to step out of the car, handcuffed him, and searched him. They had no suspicion of drugs during the second stop. § 87(2)(b) was placed into the back of their RMP and PO Louis drove § 87(2)(b)'s car back to the stationhouse. PO Louis did a check by the driver's seat in the car but no additional searching was done. The car was transported back to the stationhouse and was searched there by PO Louis. PO Ates said it was no longer than 10 minutes between the two stops. PO Ates was then shown the times of the warrant checks that were run as being 38 minutes apart. He then clarified that the first stop took ten to fifteen minutes.

PO Jason Sharp

On May 23, 2007 PO Jason Sharp appeared at the CCRB (enclosure 9a-b). PO Sharp is a white male who is 5'6" tall, weighs 200 lbs., is § 87(2)(b) old, and is assigned to the 75th Precinct. On the date of the incident, March 16, 2007, PO Sharp worked from 5:30 PM to 2:05 AM, was assigned to the 75th Precinct's Tracer unit, and was partnered with PO Bilal Ates. PO Sharp was dressed in uniform and assigned to a marked patrol vehicle, RMP number 1236. PO Sharp had no relevant memo book entries (enclosure 8a-b), § 87(2)(g)

PO Sharp and PO Ates saw § 87(2)(b) parked in front of a fire hydrant in a drug prone location with a broken tail light. The officers decided to question him because he was in the area and there had been many drug busts at that location. § 87(2)(b) was walking about 30 feet from his car when the officers stopped him and asked him for his license. § 87(2)(b) was not asked for his registration and at no point went back to his car. They ran a check and found that his license was suspended. § 87(2)(b) however assured them that he was waiting for his girlfriend to come in on the train so he would not drive the car. § 87(2)(b) did nothing to raise their level of suspicion so they never questioned him about drugs. Neither officer ever looked inside or searched § 87(2)(b)'s car. Neither officer looked inside the vehicle because they "had no cause to go inside of it." When the officers left, § 87(2)(b) was still standing 20 feet from his car. The officers were with § 87(2)(b) for five minutes.

The officers then met up with Sgt. Karimzada and his operator. About 20 minutes after they had left § 87(2)(b) they saw him driving by again and told Sgt. Karimzada that he had a suspended license. Both PO Sharp and Sgt. Karimzada pulled § 87(2)(b) over and arrested him. PO Sharp did not recall who handcuffed § 87(2)(b) but remembered searching him after he was handcuffed. He was placed in the back of PO Sharp's car, and PO Louis, the Sgt's operator, entered § 87(2)(b)'s car. PO Sharp was parked behind Sgt. Karimzada, who was parked behind § 87(2)(b). The car was brought back to the stationhouse where PO Louis told PO Sharp that he searched the car in order to voucher it. PO Sharp stated that § 87(2)(b) was threatening the officers, saying that he knew a city counselor and would have their jobs. PO Sharp was shown an MISD printout of the stops being done 38 minutes apart and confirmed that the timing seemed right.

PO Dierv Louis

On June 22, 2007, PO Dierv Louis appeared at the CCRB (enclosure 12a-b). PO Louis is a black male who is 5'11" tall, weighs 190 lbs., is § 87(2)(b) old, and is assigned to the 75th Precinct. On the date of the incident March 16, 2007, PO Louis worked from 5:30 PM to 2:05 AM, was assigned to the 75th Precinct's Tracer unit, and was partnered with Sgt. Mohammed Karimzada. PO Louis was dressed in uniform and assigned to a marked patrol vehicle, RMP number 2431. PO Louis' memo book stated that at 10 PM he had one under and that at 10:10 PM he was at the 75th Precinct (enclosure 11). At 11:04 PM PO Louis wrote that § 87(2)(b) allowed the release of his property to § 87(2)(b). He itemizes the

property released as one Motorola cell phone, thirteen keys, and 190 dollars. § 87(2)(g)

PO Ates and PO Sharp pulled over a vehicle because of a broken taillight while PO Louis and Sgt. Karimzada were behind them. They ran the vehicle and it said that the license was suspended. § 87(2)(b) was placed under arrest and PO Louis took the car back to the precinct. PO Louis did a search of the front of § 87(2)(b)'s car but did not recall what was in plain sight inside the car. PO Louis had no problems starting the car and brought the car to the corner of Essex and Sutter Street at the precinct. The car was taken to the precinct to be "vouchered for safekeeping" but it was released to a friend of § 87(2)(b)'s an hour after being brought to the precinct. Officers Ates and Sharp never cursed at § 87(2)(b) or searched his car.

Sgt. Mohammed Karimzada

On June 22, 2007 Sgt. Mohammed Karimzada appeared at the CCRB (enclosure 14a-b). Sgt. Karimzada is an American Indian male who is 5'9" tall, weighs 180 lbs., is § 87(2)(b) old, and is assigned to the 75th Precinct. On the date of the incident March 16, 2007, Sgt. Karimzada worked from 5:15 PM to 2:12 AM, was assigned to the 75th Precinct Tracer unit, and was partnered with PO Diery Louis and PO Cory Smith. Sgt. Karimzada was dressed in uniform and assigned to a marked patrol vehicle, RMP number 2431. Sgt. Karimzada had no relevant entries in his memo book (enclosure 13a-b).

Sgt. Karimzada was working with PO Cory Smith and PO Diery Louis when he was joined by PO Ates and PO Sharp. Officers Ates and Sharp said that they had stopped a man for having a suspended license. The officers did not mention conducting any investigation into possible drugs or conducting any frisks, searches, or car searches. Five minutes later § 87(2)(b) drove by and the officers made a collective decision to pull him over near Van Siclen Street and Liberty Avenue. Officers Ates and Sharp spoke to § 87(2)(b) and ran his license which showed that his license was suspended.

For "safekeeping purposes" PO Louis removed the car to the stationhouse without conducting a car search on the street. At the precinct Sgt. Karimzada instructed the officers to conduct an inventory search on the car so he assumes it was searched at the precinct. He denied that Officers Ates or Sharp ever cursed at § 87(2)(b).

PO Cory Smith

On July 13, 2007, PO Cory Smith appeared at the CCRB (enclosure 16a-b). PO Smith is a white male who is 6'3" tall, weighs 230 lbs., is § 87(2)(b) old, and is assigned to the 75th Precinct. On the date of the incident March 16, 2007, PO Smith worked from 5:30 PM to 2:05 AM, was assigned to the 75th Precinct Tracer unit, and was partnered with Sgt. Karimzada. PO Smith was dressed in uniform and assigned to a marked patrol vehicle, RMP number 2431. PO Smith had no relevant entries in his memo book (enclosure 15a-b).

PO Smith stated that he had no recollection of the incident and no memo book entries related to the incident. The incident was described to him in detail and he was shown the arrest report for the arrest. PO Smith stated that he was working with Sgt. Karimzada but did not recall working with PO Louis. PO Smith did not recall if he was with Sgt. Karimzada during the whole tour or during this specific incident.

Police Documents

MISD Check

An MISD check showed that PO Sharp checked § 87(2)(b)'s license plate for warrants at 8:43 PM and then again at 9:21 PM and 9:24 PM (enclosure 18a-e).

SPRINT

The SPRINT report showed that the 75th Precinct Tracer car had 1 under at 9:30 PM (enclosure 19).

Command Log

The command log for the 75th Precinct showed that PO Diery Louis brought in § 87(2)(b) at 9:36 PM and listed the time of arrest as 9:27 PM (enclosure 23).

Roll Call

The roll call for the 75th Precinct showed that PO Ates and PO Sharp were partnered together and that Sgt. Karimzada was partnered with PO Louis and PO Smith, and that all were assigned to a tracer unit (enclosure 22a-g).

Criminal History of Civilian

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Substantiated CCRB Allegations

PO Jason Sharp has no substantiated CCRB allegations in his three years with the NYPD (enclosure 1a-e). PO Bilal Ates has no substantiated CCRB allegations in his three years with the NYPD. PO Cory Smith has no substantiated allegations in his three years with the NYPD. Sgt. Karimzada has no substantiated CCRB allegations in his 13 years with the NYPD. PO Diery Louis has no substantiated CCRB allegations in his one year with the NYPD.

Disposition of Arrest

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Conclusions and Recommendations

Officer Identification

PO Jason Sharp was identified by § 87(2)(b) by his name and badge number as one of the officers that initially stopped his vehicle. § 87(2)(g) PO Bilal Ates was identified by § 87(2)(b) as the officer who stopped him, searched his car, and threatened to arrest him. § 87(2)(g) PO Diery Louis was identified by arrest paperwork as the arresting officer and the officer that took responsibility for § 87(2)(b)'s vehicle. § 87(2)(g) Sgt. Karimzada was identified as the sergeant on scene who authorized a search, § 87(2)(g)

Undisputed Facts

It is not in dispute that § 87(2)(b) was pulled over, and a license plate check showed that his license was suspended. It is not in dispute that § 87(2)(b) was pulled over again and arrested for § 87(2)(b). It is not in dispute that PO Diery Louis did a search of the reachable area in the front of § 87(2)(b)'s car.

Disputed Facts

§ 87(2)(g)

Assessment of Evidence

§ 87(2)(b) alleged in his CCRB statement that either PO Ates or PO Sharp frisked him when they initially pulled him over. PO Ates and PO Sharp plausibly deny frisking § 87(2)(b) because when they spoke to him he did not raise their suspicion that he could be dangerous or have a weapon. § 87(2)(b) did not mention being frisked in his initial complaint to the CCRB, nor in his phone statement. § 87(2)(g)

PO Sharp ran § 87(2)(b)'s license plate and told him that his license was suspended. § 87(2)(b) alleged that PO Ates then threatened him saying, "If I wanted to be a dick right now, I would lock you up." PO Sharp and PO Ates denied that PO Ates threatened to arrest § 87(2)(b) but rather said that they told him to let his girlfriend drive because his license was suspended. § 87(2)(g)

§ 87(2)(b) alleged that PO Ates asked for his keys and then opened all his doors and trunk and searched through his car. § 87(2)(b) alleged that later PO Ates again searched through his car after pulling him over for a second time. Finally he alleged that all the officers searched his car after he was already in handcuffs in the back of the patrol car.

While both PO Ates and PO Sharp deny a search during their initial stop, they differ about how close they got to § 87(2)(b)'s car. PO Sharp explained that § 87(2)(b) gave them his license but not his registration, and that neither the officers nor § 87(2)(b) ever went near his car. PO Ates however stated that § 87(2)(b) went inside his car to get his registration and PO Ates looked inside the car to make sure that he did not have any weapons. § 87(2)(g)

What is clear is the timeline of events related to the two stops of § 87(2)(b). § 87(2)(b) was stopped and his license plate checked by PO Sharp at 8:43 PM. Later when § 87(2)(b) was pulled over a second time, PO Sharp again ran his license plate 38 minutes later at 9:21 PM. At 9:29 PM a radio call went out that their tracer unit had 1 under and at 9:36 PM PO Louis signed § 87(2)(b) in on the 75th Precinct command log. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) The four officers that remember the incident including PO Louis stated that PO Louis drove the car back to the 75th Precinct. § 87(2)(b) stated that they could not start the car and left it on the street. § 87(2)(b) stated that he picked the car up from a bus stop on Liberty Avenue just as § 87(2)(b) had described its location. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) The officers disagree about whether an inventory search was conducted on the car. Sgt. Karimzada had instructed his officers to conduct an inventory search when the car was taken but PO Louis stated that he never had a chance to search the car because it was released to § 87(2)(b) before it was inventoried. PO Ates said that PO Louis searched the car at the Precinct and PO Sharp said that PO Louis told him that he had done an inventory search of the car. PO Louis wrote in his memo book that he released § 87(2)(b)'s possessions at 11:04 PM but this time may be inaccurate because he listed the arrest time as 10 PM when it was in fact 9:30 PM.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation A: PO Bilal Ates stopped the car in which § 87(2)(b) was an occupant.

Allegation B: PO Jason Sharp stopped the car in which § 87(2)(b) was an occupant.

PO Ates and PO Sharp stated that they pulled § 87(2)(b) over because they saw that he had a broken tail light. According to Barry Kamins' *New York Search and Seizure*, "An automobile stop is reasonable when an officer has probable cause to believe that an individual has violated the Vehicle and Traffic Law." (Kamins, 2006, 5.02) § 87(2)(g)

Allegation C: An officer frisked § 87(2)(b)

§ 87(2)(g)

Allegation D: PO Bilal Ates searched the car in which § 87(2)(b) was an occupant.

§ 87(2)(g)

Allegation E: PO Bilal Ates threatened to arrest § 87(2)(b)

§ 87(2)(g)

Allegation F: Officers stopped the car in which § 87(2)(b) was an occupant.

PO Sharp, PO Ates, and § 87(2)(b) all agree that § 87(2)(b)'s license plate had been checked during the first stop and was found to be suspended. As stated above, according to *New York Search and Seizure* by Barry Kamins, "An automobile stop is reasonable when an officer has probable cause to believe that an individual has violated the vehicle and traffic law." § 87(2)(g)

Allegation G: PO Diery Louis searched the car in which § 87(2)(b) was an occupant.

PO Louis accepted responsibility for § 87(2)(b)'s car and admitted that he did a search of the reachable area in the front of § 87(2)(b)'s car when he entered it. § 87(2)(b) said that he conducted a more extensive search which PO Louis denied. PO Sharp and PO Ates also stated that PO Louis searched § 87(2)(b)'s vehicle at the precinct. § 87(2)(g)

Allegation H: Sgt. Mohammed Karimzada searched the car in which § 87(2)(b) was an occupant.

Sgt. Karimzada stated that he instructed PO Louis to conduct an inventory search of § 87(2)(b)'s vehicle so he "assumes" that it was searched. § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: